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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
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LOPEZ, CARLOS N

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 08/27/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/657,812

Applicant(s)

HEITMANN, UWE

Examiner

Carlos Lopez

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 13-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8-9, 10-11, 12, 20-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4,8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election with traverse of Claims 1-7 in Paper No. 8 is acknowledged. Restriction requirement to species A-D and F are withdrawn. However restriction requirement to Species E is maintained.

Thus claims 1-12 and 20-22 will be considered. The traversal is on the ground(s) that tobacco production machine recited in claims 1-12, and 20-22 includes a standing region. This is not found persuasive because Contrary to Applicant's argument, claim 2 reciting a production line does not require the specific limitations to a standing region (a floor with a damping layer). Additionally, Applicant argues that the letter of restriction mailed 6/17/02 is incomplete. Contrary to Applicant's arguments, the guidelines set forth in MPEP sections 814 & 817 for a restriction of species has been met. However, since applicant deems it necessary to provide reasons for the restriction, accordance with MPEP 814<sup>1</sup>, the following is given: As stated above, the tobacco production line of claim 2 does not require a " personnel standing region" (a floor) having a damping layer. The production line is capable of performing its essential functions without the need of a " personnel standing region" (a floor). Furthermore, the standing region (a floor) does not require tobacco processing production line.

The requirement is still deemed proper and is therefore made FINAL.

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<sup>1</sup> MPEP 814: As pointed out in Ex parte Ljungstrom, 1905 C.D. 541, 119 O.G. 2335 (Comm'r Pat.1905), the particular limitations in the claims and the reasons why such limitations are considered to restrict the claims to a particular disclosed species should be mentioned if necessary to make the requirement clear.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1) Claims 5-7 and 20-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. What geometric feature does a "neutral shape" have? In claim 7, "the truncated cones" lacks antecedent basis.

In claim 20, the phrase "air-flow cross sections for supplying process" is indefinite.

Additionally, in claim 20, do the sound damping material clad the flow conduits?

In claim 21, "the sound-damped flow conduits" lacks antecedent basis.

Regarding claims 8 and 9, the phrase "sieve-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "sieve-like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2) Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Molins et al (GB 1,442,751). Molins et al disclose an arrangement for reducing noise emanating from a cigarette-making machine<sup>2</sup>. The arrangement comprises of damping mats disposed on cladding enclosing the cigarette-making machine<sup>2</sup>. As for claim 2, cigarette-making machines 45 and 30 are disposed at an angle to one another<sup>3</sup>.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3) Claims 1 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molins et al(GB 1,442,751) as applied to claim 1 above, and further in view of Kieseurette (DE 2758041) and Fuchs et al (US 5,975,238). Molins sound damping mats comprises of plywood or sheet metal<sup>2</sup>. Molins is silent disclosing exchangeable damping mats in the form of truncated cones. However, DE 2758041 teaches that truncated cones provide efficient noise damping characteristics and easy to clean damping elements. Furthermore as taught by Fuchs, the mounting and dismounting of damping elements via numerous joining methods such screws (Fuchs' claim 6) is advantageous in order to remove or dispose of residues on the damping elements without difficulty<sup>4</sup>. At the time the invention was made it would have been obvious to a

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<sup>2</sup> Page 2 lines 1-15 and Page 3 lines 102-110.

<sup>3</sup> See Figure 1.

<sup>4</sup> Column 5 lines 14-22.

person of ordinary skill in the art to have modified Molins damping mats as detachable truncated cones as taught by Kieseewette and Fuchs in order to provide damping mats that are more efficient in noise damping and are easy to clean.

Furthermore, the claimed truncated cones damping elements are well known as shown by Jablonka (US 4,555,433)<sup>5</sup>.

***Allowable Subject Matter***

Claims 8-9,10-11,12,20-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The cited prior art does not disclose or reasonably suggest a damping mats between the inside and outside cladding sheets of a removable carriage of a tobacco processing machine as recited in claims 8-9. The prior art does not disclose or reasonably suggest a inside and outside cladding sheets with reflection surfaces interposed between the sheets as recited in claims 10-11. The cited prior art does not disclose or reasonably suggest a tobacco machine including a profile strip having a cladding sheet inserted therein and limiting a hollow space filled with damping mats as recited in claim 12. Nor the cited prior art disclose or reasonably suggest a tobacco machine having sound damping material cladding the flow conduits as recited in claims 20-22.

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<sup>5</sup> Column 1 lines 65-68.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is (703) 605-1174. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

  
STEVEN P. GRIFFIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

C.L  
August 22, 2002